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11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA
13 OAKLAND DIVISION

14 BIKASH MOHAN MOHANTY, On Behalf of)
15 Himself and All Others Similarly Situated,)

16 Plaintiff,)

17 vs.)

18 BIGBAND NETWORKS, INC., AMIR)
BASSAN-ESKENAZI, RAN OZ, FREDERICK)
19 BALL, GAL ISRAELY, DEAN GILBERT,)
KEN GOLDMAN, LLOYD CARNEY, BRUCE)
20 SACHS, ROBERT SACHS, GEOFFREY)
YANG, MORGAN STANLEY & CO., INC.,)
21 MERRILL LYNCH, PIERCE, FENNER &)
SMITH, INC., JEFFERIES & CO., INC.,)
22 COWEN AND CO., INC., AND)
THINKEQUITY PARTNERS, LLC)

23 Defendants.)
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28)

Case No. 3:07-CV-05101-SBA

ADMINISTRATIVE MOTION OF GWYN
JONES TO FILE A SUR-REPLY IN
RESPONSE TO NEWLY RAISED
ARGUMENTS OF SPHERA FUND
PURSUANT TO LOCAL RULE 7-11

DENNIS KOESTERER, On Behalf of Himself and
All Others Similarly Situated,

Plaintiff,

v.

BIGBAND NETWORKS, INC., AMIR BASSAN-
ESKENAZI, FREDERICK A. BALL, RAN OZ,
LLOYD CARNEY, DEAN GILBERT, KEN
GOLDMAN, GAL ISRAELY, BRUCH SACHS,
ROBERT SACHS, and GEOFFREY YANG

Defendants.

Case No. 3:07-CV-05168-MMC

ABRENA WINSTON, Individually and On
Behalf of All Others Similarly Situated,

Plaintiff,

v.

BIGBAND NETWORKS, INC., AMIR
BASSAN-ESKENAZI, RAN OZ, FREDERICK
BALL, GAL ISRAELY, DEAN GILBERT, KEN
GOLDMAN, LLOYD CARNEY, BRUCE
SACHS, ROBERT SACHS, GEOFFREY
YANG, MERRILL LYNCH, PIERCE, FENNER
& SMITH, INC., MORGAN STANLEY & CO.,
INC., COWEN AND CO., JEFFERIES & CO.,
and THINKEQUITY PARTNERS, LLC

Defendants.

Case No. 3:07-CV-05327-MMC

DONALD SMITH, On Behalf of Himself and All
Others Similarly Situated,

Plaintiff,

v.

BIGBAND NETWORKS, INC., AMIR
BASSAN-ESKENAZI, and FREDERICK A.
BALL

Defendants.

Case No. 3:07-CV-05361-SI

WAYNE LUZON, On Behalf of Himself and All
Others Similarly Situated,

Plaintiff,

v.

BIGBAND NETWORKS, INC., AMIR BASSAN-
ESKENAZI, RAN OZ, FREDERICK BALL, GAL
ISRAELY, DEAN GILBERT, KEN GOLDMAN,
LLOYD CARNEY, BRUCE SACHS, ROBERT
SACHS, GEOFFREY YANG, MORGAN
STANLEY & CO., INC., MERRILL LYNCH,
PIERCE, FENNER & SMITH, INC., JEFFERIES &
CO., INC., COWEN AND CO., INC., and
THINKEQUITY PARTNERS, LLC

Defendants.

Case No. 3:07-CV-05637-WHA

DEBRA L. BERNSTEIN, Individually and On
Behalf of All Others Similarly Situated,

Plaintiff,

v.

BIGBAND NETWORKS, INC., AMIR BASSAN-
ESKENAZI, RAN OZ, FREDERICK A. BALL,
GAL ISRAELY, DEAN GILBERT, KENNETH A.
GOLDMAN, LLOYD CARNEY, BRUCE I.
SACHS, ROBERT J. SACHS, GEOFFREY Y.
YANG, MORGAN STANLEY & CO.,
INCORPORATED, JEFFERIES & COMPANY,
INC., MERRILL LYNCH, PIERCE FENNER &
SMITH INCORPORATED, COWEN AND
COMPANY, LLC and THINKEQUITY
PARTNERS LLC,

Defendants.

Case No. 3:07-CV-05819-CRB

EUGENE HAMMER, On Behalf of Himself and
All Others Similarly Situated,

Plaintiff,

v.

BIGBAND NETWORKS, INC., AMIR BASSAN-
ESKENAZI, FREDERICK A. BALL, RAN OZ,
LLOYD CARNEY, DEAN GILBERT, KEN
GOLDMAN, GAL ISRAELY, BRUCE SACHS,
ROBERT SACHS, and GEOFFREY YANG

Defendants.

Case No. 3:07-CV-05825-SI

JAMES WILTJER, On Behalf of Himself and All
Others Similarly Situated,

Plaintiff,

v.

BIGBAND NETWORKS, INC., et al.

Defendants.

Case No. 3:08-CV-00022-CRB

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Pursuant to Local Rules 7-11(a) and 7-3(d) of the United States District Court for the Northern District of California, Movant Gwyn Jones ("Mr. Jones") seeks leave of the Court to file a sur-reply in response to arguments raised for the first time in Movant Sphera Fund's Reply Memorandum of Law In Further Support of Motion of Sphera Fund For Appointment As Lead Plaintiff and Approval of Selection of Lead Counsel [Dkt. No.39]. In its reply brief, Sphera Fund challenges Movant Mr. Jones' ability to serve as Lead Plaintiff because he is a resident of Cyprus. *Id.* at 3.

In *Whiteway v. FedEx Kinkos Office & Print Services, Inc.*, Case No. 05-cv-2320-SBA, 2007 U.S. Dist. Lexis 95398, at *8-*9 (N.D. Cal. Dec. 18, 2007), this Court declined to consider an argument raised for the first time in the reply brief. *Id.* (citing *Stewart v. Wachowski*, No. cv 03-2873 MMM (VBKx), 2004 U.S. Dist. Lexis 26608, at *11 (C.D. Cal. Sept. 28, 2004); *Dietrich v. Trek Bicycle Corp.*, 297 F. Supp. 2d 1122, 1128 (W.D. Wis. 2003); *Grupo Gigante S.A. de C.V. v. Dallo & Co.*, 119 F. Supp. 2d 1083, 1103 n.15 (C.D. Cal. 2000)). Accordingly, Movant Mr. Jones respectfully requests leave of the Court to file a sur-reply in response to this newly raised argument. Mr. Jones submits the proposed sur-reply, attached as Exhibit A for the Court's consideration along with this motion.

Dated: January 25, 2008

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By: /s/ Reed R. Kathrein
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19 Attorneys for Lead Plaintiff Movant Gwyn Jones, and
20 Proposed Co-Lead Counsel for the Class
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CERTIFICATE OF SERVICE

I hereby certify that on January 25, 2008 I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses registered, as denoted on the attached Electronic Mail Notice List, and I hereby certify that I have mailed the foregoing document or paper via the United States Postal Service to the non-CM/ECF participants indicated on the attached Manual Notice List.

/s/ Reed R. Kathrein
REED R. KATHREIN

Mailing Information for a Case 4:07-cv-05101-SBA

Electronic Mail Notice List

The following are those who are currently on the list to receive e-mail notices for this case.

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Manual Notice List

The following is the list of attorneys who are **not** on the list to receive e-mail notices for this case (who therefore require manual noticing). You may wish to use your mouse to select and copy this list into your word processing program in order to create notices or labels for these recipients.

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